

AMENDED IN ASSEMBLY AUGUST 26, 2003

AMENDED IN ASSEMBLY AUGUST 18, 2003

SENATE BILL

No. 439

**Introduced by Committee on Public Employment and
Retirement (Soto (Chair), Karnette, and Scott)**

(Principal coauthor: Assembly Member Negrete McLeod)

February 20, 2003

An act to amend ~~Section 20035.1~~ *Sections 20035.1 and 21363.4* of, and to add Sections 20035.2, 20035.3, and 22825.11 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 439, as amended, Committee on Public Employment and Retirement. State employees: memoranda of understanding.

(1) Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of addenda to memoranda of understanding entered into between the state employer and State Bargaining Units 5 and 8, and would provide that the provisions of any addendum to a memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the addendum are approved by the Legislature in legislation other than the annual Budget Act.

This bill would provide that provisions of the addenda to memoranda of understanding approved by this bill that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would provide that if funds for these provisions are not specifically appropriated by the Legislature, the state employer, and the affected employee organization shall meet and confer to renegotiate the affected provisions.

(2) The Public Employees' Retirement Law defines "final compensation," for purposes of calculating retirement benefits, as the highest annual average compensation earnable by the member during a designated 12-month period. Existing law provides that for patrol members in State Bargaining Unit 5, final compensation for specified patrol service shall be increased by 4% if the member retires before July 1, 2004, and shall be increased by 8% if the member retires between July 1, 2004, and July 1, 2006.

Under this bill, the calculation of "final compensation" for a member in State Bargaining Unit 5 or 8 would include the compensation the member would have earned effective July 1, 2003, if a specified 5% reduction had not occurred. The bill would also make the 8% increase to final compensation for specified patrol service applicable to patrol members in State Bargaining Unit 5 who retire after July 1, 2006.

(3) *Existing law prescribes various retirement formulae for state peace officer/firefighter members of the Public Employees' Retirement System.*

This bill would prescribe a 3% at age 50 retirement formula for state peace officer/firefighter members who are members of State Bargaining Unit 8 and who retire or die on or after January 1, 2006.

(4) The Public Employees' Hospital and Medical Care Act provides that the employer's contribution for health benefits for represented state employees shall be determined through the collective bargaining process subject to funding in the annual Budget Act.

Under this bill, from January 1, 2004, to December 31, 2005, inclusive, the employer's contribution for health benefits for employees in State Bargaining Units 5 and 8 would be 80% of the weighted average for health benefits plan premiums for active state civil service employees enrolled for self alone plus 80% of the weighted average for additional premiums for family members. Thereafter, the employer's contribution for those employees would be 85% of that weighted

average for self alone plus 80% of that weighted average for family members.

(4)

(5) The bill would also declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that the
2 purpose of this act is to approve addenda to agreements pursuant
3 to Section 3517 of the Government Code entered into by the state
4 employer and State Bargaining Units 5 and 8.

5 SEC. 2. The provisions of the addenda to the memoranda of
6 understanding prepared pursuant to Section 3517.5 of the
7 Government Code and entered into by the state employer and State
8 Bargaining Unit 5, the California Association of Highway Patrol,
9 and State Bargaining Unit 8, the CDF-Firefighters, and that
10 require the expenditure of funds, are hereby approved for the
11 purposes of Section 3517.6 of the Government Code.

12 SEC. 3. The provisions of the addenda to the memoranda of
13 understanding approved by Section 2 of this act that are scheduled
14 to take effect on or after July 1, 2003, and that require the
15 expenditure of funds, shall not take effect unless funds for these
16 provisions are specifically appropriated by the Legislature. In the
17 event that funds for these provisions are not specifically
18 appropriated by the Legislature, the state employer and the
19 affected employee organization shall meet and confer to
20 renegotiate the affected provisions.

21 SEC. 4. Notwithstanding Section 3517.6 of the Government
22 Code, the provisions of any addendum to a memorandum of
23 understanding that require the expenditure of funds shall become
24 effective even if the provisions of the addendum are approved by
25 the Legislature in legislation other than the annual Budget Act.

26 SEC. 5.

27 SEC. 5. Section 20035.1 of the Government Code is amended
28 to read:

29 20035.1. For patrol members in State Bargaining Unit 5,
30 patrol members excepted from the definition of “state employee”

1 in subdivision (c) of Section 3513, and patrol members who are
2 officers or employees of the executive branch of state government
3 who are not members of the civil service, the member's final
4 compensation shall be increased as follows:

5 (a) For a member who retires or dies on or after July 1, 2001,
6 and prior to July 1, 2004, the member's final compensation for
7 patrol service subject to Section 21362.2 shall be increased by
8 one-half of the normal rate of contribution specified in subdivision
9 (a) of Section 20681.

10 (b) For a member who retires or dies on or after July 1, 2004,
11 the member's final compensation for patrol service subject to
12 Section 21362.2 shall be increased by the normal rate of
13 contribution specified in subdivision (a) of Section 20681.

14 SEC. 6. Section 20035.2 is added to the Government Code, to
15 read:

16 20035.2. Notwithstanding Sections 20035 and 20037, "final
17 compensation" for the purpose of determining any pension or
18 benefit with respect to a patrol member who retires or dies on or
19 after July 1, 2003, who was a member of State Bargaining Unit 5,
20 and whose monthly salary range that was to be effective July 1,
21 2003, was reduced by 5 percent pursuant to an addendum to a
22 memorandum of understanding entered during the 2003–04 fiscal
23 year, "final compensation" means the highest annual
24 compensation the patrol member would have earned as of July 1,
25 2003, if that 5 percent reduction had not occurred. This
26 subdivision shall only apply if the period during which the patrol
27 member's salary was reduced would have otherwise been included
28 in determining his or her final compensation. The increased costs,
29 if any, that may result from the application of the definition of
30 "final compensation" provided in this section shall be paid by the
31 employer in the same manner as other retirement benefits are
32 funded.

33 SEC. 7. Section 20035.3 is added to the Government Code, to
34 read:

35 20035.3. Notwithstanding Sections 20035 and 20037, "final
36 compensation" for the purpose of determining any pension or
37 benefit with respect to a state miscellaneous or peace
38 officer/firefighter member who retires or dies on or after July 1,
39 2003, who was a member of State Bargaining Unit 8, and whose
40 monthly salary range that was to be effective July 1, 2003, was

1 reduced by 5 percent pursuant to an addendum to a memorandum
2 of understanding entered during the 2003–04 fiscal year, “final
3 compensation” means the highest annual compensation the
4 member would have earned as of July 1, 2003, if that 5 percent
5 reduction had not occurred. This subdivision shall only apply if the
6 period during which the member’s salary was reduced would have
7 otherwise been included in determining his or her final
8 compensation. The increased costs, if any, that may result from the
9 application of the definition of “final compensation” provided in
10 this section shall be paid by the employer in the same manner as
11 other retirement benefits are funded.

12 SEC. 8. *Section 21363.4 of the Government Code is amended*
13 *to read:*

14 21363.4. (a) Upon attaining the age of 50 years or more, the
15 combined current and prior service pension for a state peace
16 officer/firefighter member described in subdivision (c) who retires
17 or dies on or after January 1, 2006, is a pension derived from the
18 contributions of the employer sufficient when added to the service
19 retirement annuity that is derived from the accumulated normal
20 contributions of the member at the date of his or her retirement to
21 equal 3 percent of his or her final compensation at retirement,
22 multiplied by the number of years of state peace officer/firefighter
23 service, as defined in subdivision (d), subject to this section with
24 which he or she is credited at retirement.

25 (b) For state peace officer/firefighter members, with respect to
26 service for all state employers under this section, the current
27 service pension and the combined current and prior service
28 pension under this section shall not exceed an amount that, when
29 added to the service retirement annuity related to that service,
30 equals 90 percent of final compensation. If the pension relates to
31 service to more than one employer and would otherwise exceed
32 that maximum, the pension payable with respect to each employer
33 shall be reduced in the same proportion as the allowance based on
34 service to that employer bears to the total allowance computed as
35 though there were no limit, so that the total of the pensions shall
36 equal the maximum.

37 (c) For purposes of this section, “state peace officer/firefighter
38 member” means state peace officer/firefighter members under
39 this part who, on or after January 1, 2006, are employed by the state
40 and are members of State Bargaining Unit 6 *or State Bargaining*

Unit 8, and may include state peace officer/firefighter members in related managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(d) For purposes of this section, “state peace officer/firefighter service” means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 6 or *State Bargaining Unit 8*, and may include state peace officer/firefighter service in related managerial, supervisory, or confidential positions or as officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members and service as defined herein.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 9. Section 22825.11 is added to the Government Code, to read:

22825.11. (a) Notwithstanding Section 22825.1, subdivision (b) of Section 22825.15, or any other provision of this article, the employer’s contribution with respect to employees in State Bargaining Unit 5 and State Bargaining Unit 8 shall be as described in paragraphs (1) and (2). To be eligible for this contribution, the employee must be enrolled in an approved health benefits plan.

(1) From January 1, 2004, to December 31, 2005, inclusive, the employer’s contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefits plan premium for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the

largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) From and after January 1, 2006, the employer's contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefits plan premium for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(b) The employer is not obligated to make a contribution under this section for any employee unless and until the effective date of the employee's enrollment in an approved health benefits plan.

(c) The contribution of each employee and annuitant under this section shall be the total cost per month of the benefit coverage afforded him or her under the plan or plans less the portion thereof to be contributed by the employer.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

~~SEC. 9.~~

1 *SEC. 10.* This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety
3 within the meaning of Article IV of the Constitution and shall go
4 into immediate effect. The facts constituting the necessity are:

5 In order for the provisions of this act to be applicable as soon as
6 possible in the 2003–04 fiscal year, and thereby facilitate the
7 orderly administration of state government at the earliest possible
8 time, it is necessary that this act take effect immediately.

